

By John Cullison

H.B. No. 1334

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Texas Sentencing Commission.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 37, Code of Criminal Procedure, is amended by adding Article 37.15 to read as follows:

Art. 37.15. TEXAS SENTENCING COMMISSION

Sec. 1. The Texas Sentencing Commission is created.

Sec. 2. The purpose of the commission is to develop, implement, and revise a uniform sentencing policy. The commission shall develop a statewide system of sentencing guidelines for felonies where punishment is assessed by the court. The guidelines must be within the minimum and maximum punishments prescribed for those felonies by statute. After development of the initial sentencing guidelines, the commission shall evaluate the guidelines periodically and recommend changes as necessary to assure certainty of punishment as well as fairness to persons convicted of felonies and to the citizens of this state.

Sec. 3. (a) The commission is composed of 15 members.

(b) The lieutenant governor shall appoint two members of the senate to the commission.

(c) The speaker of the house of representatives shall appoint two members of the house to the commission.

(d) The presiding judge of the court of criminal appeals is a member of the commission.

1 (e) The presiding judge of the court of criminal appeals
2 shall appoint three district judges and one judge of a county court
3 at law to the commission.

4 (f) The governor shall appoint to the commission:

5 (1) a district attorney or criminal district attorney;

6 (2) one person employed as a public defender by a
7 county;

8 (3) one attorney licensed to practice law in this
9 state with experience in criminal practice; and

10 (4) three members of the general public.

11 Sec. 4. The presiding judge of the court of criminal appeals
12 shall serve as chairman of the commission.

13 Sec. 5. An appointed member of the commission serves at the
14 will of the officer who appointed that member.

15 Sec. 6. Members of the commission are not entitled to
16 compensation but are entitled to reimbursement for actual and
17 necessary expenses incurred in performing their official duties.

18 Sec. 7. The Office of Court Administration shall act as
19 staff for the commission and provide all necessary data collection,
20 analysis, and research and support services.

21 Sec. 8. Following the initial development of statewide
22 sentencing guidelines by the commission, the commission shall meet
23 annually or at the call of the chairman to review sentencing
24 practices and recommend modifications to the guidelines. In
25 establishing or modifying the sentencing guidelines, the commission
26 shall take into consideration current sentencing and release
27 practices and correctional resources, including the capacities of

1 local and state correctional facilities, in addition to other
2 relevant factors. For this purpose, the commission is authorized
3 to collect and evaluate data on sentencing practices in the state
4 from each of the judicial districts.

5 Sec. 9. The commission shall develop by September 1, 1990,
6 statewide sentencing guidelines to provide trial court judges with
7 factors to consider and utilize in determining the presumptively
8 appropriate sentences in criminal cases. The statewide sentencing
9 guidelines shall be implemented by September 1, 1991, unless the
10 legislature affirmatively delays the implementation of such
11 guidelines prior to that date. The guidelines shall be applied to
12 all felonies, except capital felonies, committed on or after
13 September 1, 1991, and to all felonies, except capital felonies,
14 committed before September 1, 1991, for which sentencing occurs on
15 or after that date if the defendant affirmatively selects to be
16 sentenced under the provisions of this article.

17 Sec. 10. The commission may, no later than October 1 of each
18 year, revise the statewide sentencing guidelines. However, the
19 revision becomes effective only upon the subsequent approval by the
20 legislature by resolution or bill.

21 Sec. 11. Sentences imposed by trial court judges must be in
22 all cases within any relevant minimum and maximum sentence
23 limitations provided by statute and must conform to all other
24 statutory provisions. The failure of a trial court to impose a
25 sentence within the sentencing guidelines shall be subject to
26 appellate review by the court of criminal appeals, and the court
27 may reform the sentence to comply with commission guidelines.

1 Sec. 12. The sentencing guidelines shall provide that any
2 sentences imposed outside the range recommended by the guidelines
3 be explained in writing by the trial court judge.

4 Sec. 13. The commission and the Office of Court
5 Administration shall conduct ongoing research on the impact of
6 sentencing guidelines adopted by the commission on sentencing
7 practices, the use of imprisonment and alternatives to
8 imprisonment, and plea bargaining. The commission, with the aid of
9 the Office of Court Administration, the Board of Pardons and
10 Paroles, and the Texas Adult Probation Commission, shall estimate
11 the impact of any proposed sentencing guidelines on future rates of
12 incarceration and levels of prison population. The estimates shall
13 be based in part on historical data of sentencing practices which
14 have been accumulated by the Office of Court Administration and on
15 department records reflecting average time served for offenses
16 covered by the proposed guidelines. Projections of impact shall be
17 reviewed by the commission and made available to other appropriate
18 agencies of state government, including the legislature, by
19 December 15 of each year.

20 SECTION 2. The importance of this legislation and the
21 crowded condition of the calendars in both houses create an
22 emergency and an imperative public necessity that the
23 constitutional rule requiring bills to be read on three several
24 days in each house be suspended, and this rule is hereby suspended,
25 and that this Act take effect and be in force from and after its
26 passage, and it is so enacted.

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By John Culberson

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FEB 21 1989

1. Filed with the Chief Clerk.

MAR 6 1989

2. Read first time and Referred to Committee on

State Affairs

3. Reported favorably (as amended)
(as substituted) and sent to Printer at _____

4. Printed and distributed at _____

5. Sent to Committee on Calendars at _____

6. Read second time (amended); passed to third reading (failed) by (Non-Record Vote)
(Record Vote of _____ yeas, _____ nays, _____
present, not voting).

7. Motion to reconsider and table the vote by which H.B. _____ was ordered
engrossed prevailed (failed) by a (Non-Record Vote) (Record Vote of _____ yeas,
_____ nays, and _____ present, not voting).

8. Constitutional Rule requiring bills to be read on three several days suspended (failed
to suspend) by a four-fifths vote of _____ yeas, _____ nays, and _____
present, not voting.

9. Read third time (amended); finally passed (failed) by (Non-Record Vote) (Record Vote
of _____ yeas, _____ nays, _____ present, not voting).

10. Caption ordered amended to conform to body of bill.

11. Motion to reconsider and table the vote by which H. B. _____ was finally passed
prevailed (failed) by a (Non-Record Vote) (Record Vote of _____ yeas, _____
nays, and _____ present, not voting).

12. Ordered Engrossed at _____

13. Engrossed.

14. Returned to Chief Clerk at _____

15. Sent to Senate.

Chief Clerk of the House

16. Received from the House

17. Read, referred to Committee on _____

18. Reported favorably

19. Reported adversely, with favorable Committee Substitute; Committee Substitute read
first time.

20. Ordered not printed.

21. Regular order of business suspended by
(a viva voce vote.)
(_____ yeas, _____ nays.)

_____ 22. To permit consideration, reading and passage, Senate and Constitutional Rules
suspended by vote of _____ yeas, _____ nays.

_____ 23. Read second time _____ passed to third reading by:
(a viva voce vote.)
(_____ yeas, _____ nays.)

_____ 24. Caption ordered amended to conform to body of bill.

_____ 25. Senate and Constitutional 3-Day Rules suspended by vote of _____ yeas,
_____ nays to place bill on third reading and final passage.

_____ 26. Read third time and passed by
(a viva voce vote.)
(_____ yeas, _____ nays.)

OTHER ACTION:

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Secretary of the Senate

_____ 27. Returned to the House.

_____ 28. Received from the Senate (with amendments,
(as substituted.)

_____ 29. House (Concurred) (Refused to Concur) in Senate (Amendments)
(Substitute) by a (Non-Record
Vote) (Record Vote of _____ yeas, _____ nays, _____ present,
not voting).

_____ 30. Conference Committee Ordered.

_____ 31. Conference Committee Report Adopted (Rejected) by a (Non-Record Vote) (Record
Vote of _____ yeas, _____ nays, and _____ present, not voting).

_____ 32. Ordered Enrolled at _____